**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.990 OF 2007**
**IN**
**FIRST APPEAL NO.419 OF 2007**
**IN**
**SPECIAL CIVIL SUIT NO.290 OF 2003**

Dharmendra Kumar Gupta ...Applicant
V/s.
Jitendra Kumar Gupta ...Respondent

Mr.K.K. Tated for the Applicant.
Mrs.M. Madgauda for the Respondent.

**CORAM : J.N. PATEL &**
**A.A. SAYED, JJ.**

**DATE : 24TH APRIL, 2007.**

**P.C. :**

1. Heard.

2. We have considered the rival contentions of the learned counsel for the parties and taking into account that the Appellant has lost the suit and has preferred an Appeal which is in continuation of the suit and the Appeal having been admitted, it will be appropriate that the subject matter of the suit which is Show Room No.2 admeasuring about 275 sq.ft. on plot No.100, Sector 21, Nerul, New Bombay, Taluka & District Thane, requires to be preserved and, therefore, we are inclined to grant relief in terms of prayer clause (b) only.

3. Needless to say that the Respondent-original Defendant who is in occupation of the suit premises and claims to be the owner of the same would discharge all his liabilities towards statutory dues and municipal taxes by paying them to the concerned authorities on the appellant furnishing him with all the requisite bills of demand / charges etc.

4. The Civil Application stands disposed of accordingly.

**[J.N. PATEL, J.]**

**[A.A. SAYED, J.]**